

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

ANTHONY K. ANDERSON,

Plaintiff

v.

BRIAN WILLIAMS, et al.,

Defendants

Case No. 2:15-cv-00184-JAD-CWH

**Order Denying Certificate of Appealability  
and Pending Motions**

[ECF 32, 35, 38]

On October 26, 2015, I granted respondents' motion to dismiss this habeas petition without prejudice because petitioner Anderson's state-court appeal was pending before the Nevada Supreme Court. ECF 29. On November 12, 2015, Anderson filed a notice of appeal to the Ninth Circuit. ECF 31. Anderson also filed a motion in this court for a full and complete copy of case. ECF 32. On November 23, 2015, the Ninth Circuit remanded this case for the limited purpose of granting or denying a certificate of appealability. ECF 38. On December 7, 2015, Anderson filed a motion in this court for reconsideration of the order granting the motion to dismiss. ECF 35. I now decline to issue a certificate of appealability, and I deny Anderson's pending motions.

**Discussion**

**A. Anderson's Pending Motions are Denied Because this Court Lacks Jurisdiction to Consider Them.**

A notice of appeal divests this court of jurisdiction in the case. Accordingly, this court has no jurisdiction to consider Anderson's motion for reconsideration or motion for a copy of the case. Respondents served Anderson with a copy of the 81 exhibits attached to their motion to dismiss. Anderson appears to clarify in his reply in support of his motion that he seeks a copy of the petition filed in this case and a copy of his opposition to the motion to dismiss (ECF 36). I direct the Clerk of Court to send Anderson those copies.

1 **B. A Certificate of Appealability is Not Merited.**

2 28 U.S.C. § 2253(c)(2) authorizes a court to issue a COA only when the petitioner “has  
3 made a substantial showing of the denial of a constitutional right.” When claims are rejected on  
4 their merits, a petitioner “must demonstrate that reasonable jurists would find the district court’s  
5 assessment of the constitutional claims debatable or wrong.” *Slack v. McDaniel*, 529 U.S. 473,  
6 484 (2000) (citing *Barefoot v. Estelle*, 463 U.S. 880, 893 & n.4 (1983)). For procedural rulings,  
7 a COA will issue only if reasonable jurists could debate (1) whether the petition states a valid  
8 claim of the denial of a constitutional right and (2) whether the court’s procedural ruling was  
9 correct. *Id.*

10 Having reviewed its determinations and rulings in adjudicating the motion to dismiss, I  
11 find that none of those rulings justifies a COA under the *Slack* standard, and I decline to issue a  
12 certificate of appealability.

13 **Conclusion**

14 IT IS THEREFORE ORDERED that **a certificate of appealability is DENIED.**

15 IT IS FURTHER ORDERED that petitioner’s motion for a copy of the case and motion  
16 for reconsideration [ECF 32 and 35] are **DENIED** for lack of jurisdiction. **The Clerk of Court**  
17 **is directed to SEND to petitioner one copy of the petition [ECF 6] and one copy of**  
18 **petitioner’s opposition to the motion to dismiss [ECF 22].**

19 DATED: 17 December 2015.

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21 Jennifer Dorsey  
22 United States District Judge  
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